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EXAMINER

HUSSAIN, TAUQIR

ART UNIT	PAPER NUMBER
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2152

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,250	Applicant(s) KHANDPUR ET AL.	
	Examiner TAUQIR HUSSAIN	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07/06/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/25/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-28 are pending in this application.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required: Claim 28 recite “program storage device readable by.... A program of instruction”, there is no support found for this terminology in the specification.

Drawings

2. The drawings are objected to because there is a lack of descriptive text legends for FIG. 1-3, [see 37 CFR 1.83, CFR 1.84 [5(e)], MPEP § 608.02(e)].
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “communication operator” or “automatically selecting one of the download technology” and “plurality of download technologies” in claim 1 specifically and subsequent independent claims, “plurality of wireless receiving devices” or “system for determining download capabilities of each wireless receiving device” or “a system for selecting one of the download technologies.... for each wireless receiving device.... based on individual download capabilities or respective wireless receiving device” in claim 13, “step of automatically selecting one of the download technologies” in claim 27 and “automatically selecting a download technology from a plurality of download technologies” in claim 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 5, 6-9, 11, 13, 15-17, 19-20, 23-28 reciting the phrase, "download technology capability or download capability, content format capability" which renders indefiniteness within claims entirety as although device is capable of doing variety of task but we don't know for sure whether it performs the tasks or not.

6. Claim 25, recite “means for transmitting the download technology capabilities” where there is no support for the term means in the specification.
7. Claim 28, recite “program storage device readable by.... A program of instruction” there is no support found in the specification for above mentioned phrases.
8. Claim 20 recite “toolkit application is adapted to send the download technology capabilities” the phrase adapted to renders the claim indefinite as it may or may not perform.
9. Claims 22 and 26 recite “transmitting is adapted to transmit manufacturer and model information” please see the rationale above for claim 20.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-2, 13-14 and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Citrano et al (WO 02/39596 A2), hereinafter “Citrano”.
12. As to claims 1, 27 and 28 (method, step and program product), Citrano discloses, a method for selecting a download technology for downloading information to a remote device, the method comprising:

providing a communications operator with a plurality of different download technologies (Abstract, where file is downloaded from a remote server to a client over the network);

transmitting data from the remote device to the communications operator for determining a download technology capability of the remote device by the communications operator (Page.2, lines 4-5, where client capabilities are checked prior to downloading); and

automatically selecting one of the download technologies from the plurality of download technologies by the communications operator to download information to the remote device based upon the download technology capability of the remote device (Fig.2, Page.2, lines 22-27, where download file occur in the background on user device.

13. As to claims 2 and 14, Citrano discloses, wherein the step of providing the communications operator with a plurality of different download technologies comprises providing at least two of the technologies from a group consisting of BREW distribution system, JAVA distribution system, MMS, SMS, EMS, and HTTP/WAP browser downloads (Page.3, lines 12-16, where client/server architecture is using WWW network which inherently implies using HTTP protocol and further on page.4, lines 11-13, multimedia files are disclosed which are e.g. sound files, pictures or text).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 3-11, 16-17 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Citrano in view of Coppinger et al (Pub. No.: US 2001/0046862 A1), hereinafter "Coppinger".

16. As to claims 19 and 25, Citrano discloses, a mobile communication (Citrano, Page.3, lines 9-11, where wireless device or PDA is disclosed)

a transceiver (Citrano, Page.3, lines 9-11, where wireless device or PDA is disclosed, which inherently will have a transceiver to transmit and receive the information);

a memory for storing (Citrano, Page.3, lines 9-11, where inherently PDA will have a memory to store information); and

a system for transmitting, by the transceiver, the download technology capabilities of the mobile communications device, stored in the memory, to a wireless communications operator (Citrano, Page.3, lines 9-11, where inherently PDA has a transmitting mechanism built in with drivers and software to transmit the data or information).

Citrano however is silent to disclose explicitly, storing download technology capabilities of the mobile communications device.

Coppinger however discloses, storing download technology capabilities of the mobile communications device (Coppinger, [0008], where storing in a memory a record of device identification in association with other auxiliary/preferential information).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time the invention was made to combine the teachings of Citrano with the teachings of Coppinger in order to provide a system which can register a wireless device; enable the wireless device to execute an application engine; and transferring an application program to the wireless device over the wireless medium or through other direct interfaces. Further, the step of transferring may include receiving an instruction directing transfer of the application program to a plurality of wireless devices including the wireless device; and transferring the application program in turn to the wireless device.

17. As to claims 3, 16 and 22, Citrano discloses, wherein the step of transmitting data from the remote device to the communications operator comprises transmitting remote device information (Citrano, Fig.2, page.2, lines 4-7, where client's capability is determined before transmitting the data).

Citrano however is silent on disclosing explicitly, "including manufacturer and model of the remote device".

Coppinger however discloses, exchanging device information including manufacturer and model of the device (Coppinger, [0059], where manufacturer and mode of device is included while exchanging device information).

18. As to claim 4, Citrano and Coppinger discloses the invention substantially as in parent claim, including, further comprising storing the remote device information in a memory of the communications operator (Coppinger, [0008], where storing in a memory a record of the identification is disclosed).

19. As to claim 5, Citrano and Coppinger discloses the invention substantially as in parent claim, including, wherein the data from the remote device to the communications operator comprises terminal download technology capability data comprising available download agents information (Citrano, page.2, lines 4-7, where downloading multimedia in optimal format means there has to be more than one format available).

20. As to claim 6, Citrano and Coppinger discloses the invention substantially as in parent claim, including, wherein the data from the remote device to the communications operator comprises terminal content format capability (Page.2, lines 4-7, where determining multimedia optimal format is disclosed).

21. As to claims 7, 20 and 26, Citrano and Coppinger disclose the invention substantially, including, wherein the remote device comprises a toolkit application (Coppinger, [0008], where performing the described steps will require a mechanism which can be interpret as toolkit), and wherein the toolkit application sends download technology capability data which is transmitted to the communications operator in the transmitting data from the remote device to the communications operator (Coppinger, [0009], where transferring the instruction directing transfer of the application program to plurality of wireless device for programs execution between device and server can be interpret as considering the compatibilities between device and server).

22. As to claim 8, Citrano and Coppinger disclose the invention substantially as in parent claim 7, including, wherein the download technology capability data sent by the

toolkit application is stored in a memory of the communications operator (Coppinger, [0008], where device information is stored in the memory).

23. As to claim 9, Citrano and Coppinger disclose the invention substantially as in parent claim 8, including, wherein the step of automatically selecting is based, at least partially, on the download technology capability data stored in the memory of the communications operator (Citrano, Page.3, lines 11-14, where software and hardware components are considered before sending or receiving files automatically).

24. As to claims 10 and 17, carry similar limitations as claim 3, 8 and 9 and therefore is rejected under for same rationale.

25. As to claim 11, carry similar limitations as claim 3 and therefore is rejected under for same rationale.

26. As to claim 21, carry similar limitations as claim 20 above therefore is rejected under for same rationale, additionally it is well known in the art a wireless devices having a SIM card in it which contains device specific information along with instructions.

27. As to claim 23, Citrano and Coppinger disclose the invention substantially as in parent claim 19 above including, wherein the download technology capabilities comprise the download agents that are supported in the mobile communications device (Coppinger, [0010], where executions of programs with desired control of the program obviously require the agent negotiations).

28. As to claim 24, Citrano and Coppinger disclose the invention substantially, including, wherein the step of providing the communications operator with a plurality of different download technologies comprises providing at least two of the technologies from a group consisting of BREW distribution system, JAVA distribution system, MMS, SMS, EMS, and HTTP/WAP browser downloads (Page.3, lines 12-16, where client/server architecture is using WWW network which inherently implies using HTTP protocol and further on page.4, lines 11-13, multimedia files are disclosed which are e.g. sound files, pictures or text).

29. Claims 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Citrano in view of Chandhok et al (Pub. No.: US 2004/0267646 A1), hereinafter "Chandhok".

30. As to claims 12 and 18, Citrano disclose the invention substantially as in parent claim 1 above, including, automatically sending and receiving files in client server architecture (Citrano, Page.3, lines 11-9).

Citrano however is silent on disclosing explicitly, use of at least one parameter selected from a group consisting of support of download agents, user location, wireless communication mode, encryption, speed of delivery and cost of delivery.

Chandhok however discloses, the feature of downloading of application which requires encryption key, device ID, cost and other unique data as known in the art (Chandhok, [0031]).

Therefore, it would have been obvious to one of the ordinary skilled in the art at the time the invention was made to combine the teachings of Citrano with the teachings

of Chandhok in order to provide a system and method that permits accurate and reliable transaction data for third party application sales and services to wireless telecommunication devices across a wireless network, and can provide accurate data sufficient to bill wireless service subscribers for the billable transactions.

31. Claim 15 is rejected under 35 U.S.C 103(a) as being unpatentable over Citrano in view of Warwick et al. (Pub. No.: US 2005/0055572 A1), hereinafter "Warwick".

32. As to claim 15, Citrano discloses the invention substantially as in parent claim 13 above including determining download capabilities of each wireless receiving device (Citrano, page.3, lines 11-14)

Citrano however is silent on disclosing explicitly, delivery abstraction module.

Warwick however discloses, delivery abstraction module (Warwick, [0012], where target devices preferences are received and obviously stored in abstraction module).

Therefor, it would have been obvious to one to ordinary skilled in the art at the time the invention was made to combine the teachings of Citrano with the teachings of Warwick in order to provide an abstraction module, which can enable a common interface that may be used to configure any of the initiators, receives through this common interface an indication that a selected one of the initiators is to be configured to communicate with a selected target device, and retrieves security information from a common database, the database including information that is relevant to configuring security for any of the plurality of initiators.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAUQIR HUSSAIN whose telephone number is (571)270-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571 272 3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. H. /
Examiner, Art Unit 2152

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146